



Deval L. Patrick  
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# *The Commonwealth of Massachusetts*

## *Department of Public Safety*

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Thomas G. Gatzunis, P.E.  
Commissioner

Thomas P. Hopkins  
Director

### **Board Meeting Minutes – April 7 2014**

#### **21<sup>st</sup> Floor – Conference Room 1**

#### **Present Board Members:**

- Walter White, Executive Office of Public Safety Designee, Chair (WW)
- Jeffrey Dougan, Massachusetts Office on Disability Designee (JD)
- Carol Steinberg, Member (CS)
- Diane McLeod, Vice Chair (DM)
- Andrew Bedar, Member (AB)

and

- Kate Sutton, Program Coordinator/Clerk for Proceedings (KS)

#### **Members Not Present:**

- Raymond Glazier, Executive Office on Elder Affairs Designee (RG)

- Meeting began at 9:15 a.m.

#### **1) Discussion:** Roll Call

WW - Call to order, all but Raymond Glazier present

#### **2) Discussion:** Shaker Village Trustees Office, 1843 West Housatonic Street, Pittsfield (V11-161)

- KS - EXHIBIT – April 2, 2014 e-mail from June Hailer, Pittsfield Commission on Disabilities; including April 1, 2014 e-mail from Linda Steigleder, President and CEO of Hancock Shaker Village
- Review of the case was moved to the current meeting due to the loss of quorum at the last meeting

- most recent e-mail from June Hailer notes that the Commission met with Linda Steigleder and Anthony Barnaba of Blueline Design on March 20, 2014
- Commission is opposed to the AmRamp metal ramp handrails, which are flattened at connection points and attached with a metal bolt, where “a hand or finger could get cut on this nail, as one goes up the ramp holding the railing.” Commission requests that the railing be smooth and rounded from the top to the bottom.
- Attached April 1, 2014 e-mail from Linda Steigleder states that subsequent to the meeting with Commission, “AmRamp company has not been able to resolve to HSV’s satisfaction making the handrail a continuous tube rather than a tube broken by an indent in metal and a hardware fastener.” E-mail also notes that they may need to have AmRamp take back the ramp and reimburse the museum.

**Raymond Glazier, Executive Office on Elder Affairs Designee (RG) – now present**

- Previous decision of the Board (2/10/14) was to wait to hear from the parties concerned regarding the most recent proposal for a modular steel ramp; November 4, 2013 decision required that plan and cost details for both a permanent and modular ramp be received December 31, 2013. Proposed AmRamp on footings, submitted on January 31, 2014

*DM - require permanently installed fully compliant ramp by June 1, 2014; cannot use a temporary ramp in a permanent installation*

*AB - second – carries unanimously*

**3) Discussion: Condo Units 215-219, 101 Main Street, Medford (V13-342)**

- KS - EXHIBIT – March 5, 2014 submittal from Elizabeth Bahnuk, Senior Planner for Hallmark Health System
- Review of the case was moved to the current meeting due to the loss of quorum at the last meeting
  - February 10, 2014 Notice of Action granted the requested variance regarding accessible toilet rooms for exam rooms
  - Granting of the variance was conditional to the submittal of a written policy (required to be submitted by March 15<sup>th</sup>) outlining that patients with disabilities will be scheduled to be seen in the 3 exam rooms served by the accessible toilet rooms, with said written policy to be distributed to staff once approved by the Board

*RG - needs to be stated up front about policy for accessible toilet rooms and scheduling; all of other scheduling should be after those last statements in the submitted policy; therefore move up in the order of the policy and resubmit by 4/22/14 for the next meeting*

*MB - second – carries with DM abstaining*

**4) Discussion: Norton High School, 66 West Main Street, Norton (V14-027)**

- KS - EXHIBITS – March 6, 2014 submittal from Deborah Marai of Pinck & Co. including the enlarged drawings of the three wheelchair seating areas; March 21, 2014, photographs of wheelchair seating locations submitted by Marai
- Review of the case was moved to the current meeting due to the loss of quorum at the last meeting
  - February 24, 2014 Notice of Action granted the variance for the route to the stage and the wheelchair seating areas, on the condition that enlarged drawings of the three seating areas are submitted to the Board by March 7<sup>th</sup>

*MB - accept the middle of the house and the back of the house accessible seating locations, but need to move the front accessible seating locations forward so that they are "shoulder-to-shoulder"*  
*RG - second – carries unanimously*

5) Discussion: Nite Owl Diner, 1680 Pleasant Street, Fall River (V13-241)

- KS - EXHIBITS – March 12, 2014, submittal from John Patrick Long on behalf of the owners of Nite Owl Diner as follow-up to the February 10, 2014 decision of the Board; also included “proposed accessible entrance ramp plan” (SITEC, Inc., March 7, 2014) and two site plans (with one showing the ramp)
- Review of the case was moved to the current meeting due to the loss of quorum at the last meeting
  - 2/10/14 decision required that the Petitioners submit detailed invoices for all of the work done on the building, as well as copies of any building permits received; the Board also required that plans (drawn and stamped by a registered architect) and cost estimates for creating a ramp to the building were submitted
  - Long states that “the cost estimates [for the ramp] exceed the amount required by the code and regulations and therefore the property owner should not be required to construct the ramp as per the regulations and code.”
  - Long’s letter also stated that the Building Department will not issue a permit until the Board makes a decision regarding this matter

WW - need to know the work that they are proposing, since they are stating that they are seeking a permit

*MB - continue this matter, until the applicant provides to the Board, documentation of proposed work that will be submitted to the building department in seeking a permit to reopen the restaurant*  
*CS - Second – carries unanimously*

6) Discussion: Concord Outfitters, 113 Commonwealth Avenue, Concord (V13-339)

- KS - EXHIBIT – April 3, 2014 e-mail from Andrew Bonzagni of Concord Outfitters
- e-mail states that the required work (awnings, lights, and tenant signs for both retail businesses at the rear entry be provided, along with rear accessible entrance, vestibule and parking) will be completed by mid-April, and request that Thomas Hopkins, Executive Director, be able to approve the issuance of the occupancy permit on behalf of the Board, since the work will most likely be completed prior to the Board’s next meeting on April 28<sup>th</sup>.
  - Previous order of the Board was that no occupancies could be issued until photographic evidence of the completed work (rear accessible entrance and vestibule and accessible parking) was received by the Board

MB - want to see welcoming entrance way at the rear

*CS - allow Thomas Hopkins to approve the issuance of the occupancy (by notifying the building department of receipt of verification), but only if the pictures meet the requirements of the Board’s decision*  
*RG - second – carries with AB, CS, and RG in favor and MB and DM opposed*

7) Incoming: Apartment Building, 40 Norris Street, Cambridge (V12-293)

- KS - EXHIBIT – variance application for property submitted by Domenic Valente, AIA; e-mail chain from Larry Braman of the City of Cambridge Inspectional Services Department (March 12, 2014); e-mail from Michael Muehe, Executive Director for the Cambridge Commission for Persons with Disabilities (March 17, 2014)
- Amendment to original docket; now seeking variance for 28.3.4, objects beneath elevator call buttons (stairs adjacent to elevator shown in some pictures), and 28.3.1, regarding call button height (42” required; 45 ½” at 1<sup>st</sup> floor; 46” at 2<sup>nd</sup> floor; 44 ½” at 3<sup>rd</sup> floor; 46” at basement)
  - E-mails from both Muehe and Braman note that the applicant provided no impracticability argument or justification as to why the required work could not be done; Muehe’s e-mail states his opposition to the variances requested

CS - *continue for more information about cost of compliance or argument about technological infeasibility, to be submitted to the Board by April 22, 2014*

DM - *second – carries unanimously*

8) Discussion: Casco Crossing Apartments, 168 River Road, Buildings 1-4 and Community Building, Andover (C14-012)

- KS - EXHIBIT – March 26, 2014 letter from Ted Papadopoulos of Ashton Law P.C. on behalf of the property owners; March 24, 2014 letter from Ryan Givens, Senior Commercial Claims Representative for Farmers Insurance
- Letter from Farmers Insurance asked for information regarding this matter, on behalf of the adjuster assigned to handle the case; Tom Hopkins left a message for him on April 1, 2014
  - Letter from Ashton Law PC requests an additional 90 days to submit a formal response to the “First Notice” issued on March 12, 2014.
  - Want 90 days to respond instead of the required standard of 14 days allowed in the First Notice

CS - *grant 30 days, until May 6, 2014*

AB - *second – carries with MB abstaining*

9) Incoming: The Batch Yard, 1 & 2 Bowdoin Street, 25 Charlton Street, Everett (V13-132)

- KS - EXHIBIT – March 27, 2014 submittal from Kenneth Friedrichsen, Manager of GM Broadway
- Previously denied the variance due to the lack of information submitted after two reviews
  - March 27<sup>th</sup> submittal included language regarding 521 CMR 43.3.2 (sink depths requirements for a Group 1 kitchen); petitioners propose to provide sinks deeper than the maximum allowed 6”, and also propose that the deeper sink will be swapped out for a shallower sink free of charge if requested by a resident

MB - *rescind the denial and based on the submittal of the lease language, and grant the variance for 521 CMR 43.3.2*

CS - *second – carries unanimously*

**CS left the room**

10) Discussion: MBTA Yawkey Station, Maitland Street at Beacon Street and Yawkey Way Extension at Brookline Avenue, Boston (V12-131)

- KS - EXHIBIT – March 11, 2014 submittal from Laura Breslford, Acting Assistant General Manager, System-Wide Accessibility for Massachusetts Department of Transportation, including plans showing the “pinch points” on the platform when trains are in the station and the MBCR boarding policy
- Submittal per the January 27, 2014 decision of the Board to grant the variances requested for 18.5.2, regarding the path of travel along the platform, which is reduced in 6 locations on the Outbound Platform (52”, 44”, 59”, 57”, 50” and 54”) and in 1 location on the Inbound Platform (54”); 60 inches required
  - “Bulletin Orders” regarding boarding procedures for MBCR employees

*AB - accept the submitted policy as meeting the requirements of the January 27, 2014 decision*

*DM - second – carries with MB abstaining*

11) Discussion: Waverly Commuter Rail Station, 525 Trapelo Road, Belmont (C12-033 & V13-076)

- KS - EXHIBIT – March 28, 2014 submittal from Laura Brelsford, Acting Assistant General Manager, System-Wide Accessibility for Massachusetts Department of Transportation
- Submittal states that survey and conceptual design drawings will be completed by December 1, 2014
  - Previous decision of the Board (July 1, 2013) required that the station be “brought into compliance with the applicable sections and verified as such, no later than January 1, 2015”

**CS now present**

*MB - accept the status report; however, require that completed plans for design are submitted by December 1, 2014*

*DM - second*

*MB - withdraw*

*AB - accept the status report and the proposed schedule outlined in the March 28, 2104 letter from Brelsford*

*MB - second – MB and AB in favor, DM opposed, CS and RG abstained*

12) Discussion: 76 Main Street, Nantucket (V13-196)

- KS - EXHIBIT – March 27, 2014 submittal from Joseph Hanley with status report and request for extension to May 1, 2014
- Previous decision of the Board on July 1, 2013 was to grant a time variance to February 28, 2014 for the completion of the following: the rear accessible entrance, via a vertical wheelchair lift to the guest house; fully compliant Group 2B guest room (as proposed by the owner); single-user accessible toilet room at the first floor of the guest house; and an accessible route from the guest house entrance to inn room #18
  - Extension to May 1, 2014 requested based on the delay of the required work due to the winter weather

*MB - grant an extension to May 1, 2014 for the submittal of completion verification*  
*DM - second – carries unanimously*

***RG left the room***

13) Discussion: Question on cases of the day

CS - general questions about Life Saving Station

CS - Rockport park issue for hearing

KS - only outstanding issue for Halibut Park is cross slope

CS - Egremont issues?

KS - only issue on the table is the slope of the newly created walkway  
- the hearing was scheduled based on the lack of confirmation about 30% analysis  
- letter from owner's son outlines the issues at hand and lack of appearance at the hearing

14) Discussion: Harris Cary Memorial Building, 1605 Massachusetts Avenue, Lexington (V13-238)

KS - EXHIBIT – April 2, 2014 submittal a Don Mills;  
- first amendment sought is regarding 521 CMR 20.6.1, wall sconces at existing stair landings

*MB - grant variance for 521 CMR 20.6.1, on the condition that some kind of object is placed on the floor directly below the sconces, to prevent people from coming into contact with the sconces*

*AB - second – carries unanimously*

***RG now present***

KS - next variance/advisory opinion for 521 CMR 23.4.6e, regarding the striping of access aisles for two van accessible spaces  
- proposing herringbone brick pattern in lieu of contrasting striping

*CS - deny the variance requested, based on the fact that there is substantial benefit to the striping of the access aisles*

*MB - second – carries unanimously*

WW - variance for 521 CMR 24.3, for Estabrook recital stage ramp; 41.5” between the handrails instead of 48”

*MB - grant the variance requested, based on the fact that “impracticability” had been proven*

*DM - second – carries unanimously*

KS - advisory opinion for exit signage; international symbol for accessibility proposed in the “I” location of the “exit” wording

*MB - although not thrilled with it, the regulations only require that the international symbol for accessibility be incorporated in the sign and that the sign be illuminated; so this would comply with the letter of the law; although may need to check with building department as to if the word "EXIT" is required to be clearly spelled out and not just implied*

*DM - second – carries unanimously*

WW - door clearance at women's accessible toilet stall

- 42" required, reduced to 34"

- door swings in and swinging the door out may be a safety hazard due to the proximity of a hand dryer and the reduction of pull side clearance

*MB- grant the variance for 30.6.1 as proposed*

*DM - second – carries with CS opposed*

15) Hearing: Life Saving Station, Short Beach, Nahant (V13-298)

WW - called to order at 11 a.m.

- introduce the Board

Emily Potts, Acting President for Nahant Preservation Trust (EP)

Dennis Maroney, Board Member Nahant Preservation Trust (DMa)

Patrick Guthrie, Spencer & Vogt Group (PM)

Lynn Spencer, Spencer & Vogt (LS)

WW - all sworn in

- EXHIBIT 1 – AAB1-37

KS - all have received a copy of the amendment packet which is included in EXHIBIT 1

PG - the presentation boards shown are duplicated information of that provided within the Board packet (Exhibit 1)

- Life Saving Service was precursor to Coast Guard, so when a vessel was in distress a signal was sent and people from the Life Saving Station would run surf boats were sent out to the vessel in distress

- federal government thought this building was surplus, so the Town owned it, then the Nahant

Preservation Trust entered into a long-term lease with the Town

- Preservation trust funds used for exterior envelope

- American Legion is a tenant at the first floor

- residential apartment at the second floor was proposed, but did not work out, so now proposed as financial planner office; therefore change in use

- first floor (AAB10) shows accessible space; accessible ramp into the building

- two doorways that are exit only doorways

- at the top of the ramp, to the left is the "boat room", where the boats were previously kept

- to the right of that is the American Legion leased space, accessed by lift

- to the left of the boat room is a catering kitchen space and toilet rooms, with accessible toilet rooms provided

- 14 feet floor to floor difference between first floor and second floor

- both full elevator and LULA would not be feasible within the existing space available

- also looked at the installation of a vertical wheelchair lift (which would also require a variance for the 13 foot run from the State Elevator Board of Appeals, since only 12 feet allowed)
- first floor is separated from the second floor, and would also need a variance from the Elevator Board of Appeals for going through the floor
- would also need to provide a fireproof shaft because of cutting thru the floor
- 18" floor height, need a ramp, but would have to extend into Boat Room; would need auto-opener at lift
- because of encroachment on Boat Room, would have to enclose porch, and would have to remove some of the historic stairs within the lookout tower
- at the second floor, there are some doors that would need to be enlarged to have the compliant width
- while technically possible, the impact on the tower and the public space would be not feasible functionally and financially
- lease language would outline the availability of the first floor space for use by the second floor tenant
- cost of approximately \$60,000 for the installation of this plan for a vertical wheelchair lift and the associated costs

DM - AAB 15, stairs variance requests?

PG - another variance request for the existing stairs

- there are stairs at each side of the second floor space, these are existing stairs built in the 19<sup>th</sup> century, narrow stairs with existing interior handrails and winders

MB - financial planner proposed, but they specialize in private matters, and propose to provide very public space at the first floor for an alternate meeting location

LS - office is for a private investor, who does not work with the public, he has two employees

- understand that variances can be granted for specific tenant, but would like the flexibility of a variance for an office space or rental apartment

MB - no variance necessary for this particular tenant, but need to know that if there is a change in the tenant, then the first floor accessible alternate meeting space is available

LS - this is why the lease language is proposed, to allow for the availability of the first floor space

MB - very wide open space proposed for conference space for the second floor tenant, so not conducive to tenants that may have private transactions with confidential materials, such as a lawyer or financial planner

LS - building is not that large

- in order to make the first floor accessible, significant structural changes had to be made to create access

DMA - veterans are generally there on the weekends and the evening hours, so I'm sure that the veterans would be receptive of use of the upper room as a more "private" conference space for meetings during the day, since they are not generally there during the day and the Legion Hall is available via the lift

MB - would like the option available for more private meetings spaces available for the second floor tenant space

CS - concerned with the use changing

DM - was thinking variance for this use only



CS - what about the availability for scheduling of the space  
- nothing in the policy about priority of conference space available for meeting with people that are not able to get to the second floor office space

MB - *grant the variance for the lack of vertical access to the second floor; on the condition that documentation provided clearly outlining in the lease that there is priority for space available at the first floor, and agreement that there is private space available within the other first floor tenant space*

CS - *would rather continue for more information and a better policy*

RG - *second MB's motion*

DM - *what about if the second floor tenant leaves, then granting a variance for the building already; which is why would like to keep it to this tenant only*

LS - *there is a special permit that was granted by the Town of Nahant, limited to business use versus professional*  
- *second floor, because of sloped roof, there is limited usable square footage available*

MB - *will amend to this tenant only; and if changes to tenant, then need to come back to the Board with the change*  
- *carries with CS opposed*

PG - stairs are existing, and currently have a handrail down one side (interior)  
- proposing compliant wall-side handrail, no compliant interior handrail  
- winder stairs as well, so not continuous tread width  
- without the winders, would have to run straight in both directions and would eliminate the other tenant space

AB - *grant all stair variances as proposed, with compliant wall side handrail provided at both stairs*  
MB - *second – carries unanimously*

MB - *receive verification of the use of the first floor, revised leased language regarding a smaller private space at the first floor within 30 days*

EP - *in the Boat Room, the room is private*

PG - *room is a little narrower and a little less wide*

EP - *scheduled use of the Boat Room space, and it is locked most of the time*

MB - *should the tenant be included in the lease language for the veteran's lease, since they are the tenant now*

DMA - *Legion helped them buy the building, they will be there forever*

MB - *submit lease language for providing first floor spaces at both the Boat Room and the American Legion within 30 days receipt of the decision of the Board*

DM - *second – carries unanimously*

16) Incoming: Lancaster Community Center, 39 Harvard Road, Lancaster (V10-085)

KS - EXHIBIT – March 31, 2014 e-mail from Alexandra Turner, Director of Lancaster Community Center; status report

*DM - accept the submittal of the status report and require that the copy of executed contract and deposit check for installation of the elevator be submitted within 30 days receipt of the amended decision*

*MB - second – carries unanimously*

17) Hearing: Halibut Point State Park, Gott Avenue, Rockport (C13-036)

WW - called to order at 1 p.m.

- introduce the Board

Bard-Alan Finlan, Complainant (BF) (via conference call)

WW - BF sworn in

- EXHIBIT 1, AAB1-58

KS - e-mail from Thomas McCarthy of DCR, noting complaint and that he will be applying for the variances, dated April 4, 2014

WW - EXHIBIT 2

KS - e-mail from Bard-Alan Finlan with new pictures of parking lot on Sunday, April 6, 2014; dated Sunday, April 6, 2014

WW - EXHIBIT 3

BF - 2 years ago, there was an issue with a rock causing approximately \$1,000 worth of damage to my car when parked in Accessible parking space  
- complaint filed and changes made by DCR; accessible parking was moved to make it closer to the entrance to the park  
- visited the park last summer and parked in the new location, and almost fell getting out of the car because of hard berries in the access aisle adjacent to the accessible parking space  
- bought a level to measure slopes, and then alleged that the slopes of the parking were not compliant (measured 6%)  
- new parking, although the closest to the entrance of the park, still by the rock wall, still under the tree that sheds the berries (a slip and fall hazard), van accessible space is hard to negotiate  
- when taking measurements last fall, witnessed a woman give up trying to park in the van accessible space since it is hard to get into and out of  
- \$2 fee charged for parking, during summer season; no notice at the park about a person with a handicap plate or placard not being required to pay  
- have to walk to a machine to pay the fee to park and then back to the entrance  
- note that DCR has said that they will repave the parking lot in 2-3 years, but they did not measure the slopes of the parking where they were moved to

- personal opinion is to move the parking spaces to the opposite side of the lot, which has compliant slopes

CS - measurements of the width of the parking spaces and access aisles done by Compliance Officer Mark Dempsey at the site visit

BF - pile of dirt in most recent pictures is about 8 inches high  
- history of not maintaining accessible parking spaces

*CS - find in favor of the Complainant, regarding reported violations and lack of maintenance of accessible features and noncompliant parking lot slopes;*

*DM - second - carries unanimously*

*DM - submit plan for compliance or variance application within 30 days receipt of the decision of the Board*

*MB - second – carries unanimously*

18) Discussion: Boston Dialogue Foundation, 500 Revere St., Revere (V13-205)

KS - EXHIBIT - April 1<sup>st</sup> submittal of affidavits and stair info from Steven Zecher, International Office of Architects (affidavits and stair information submitted); April 3, 2014 e-mail from Albert Talarico, Revere Building Department

KS - handrail shape and extensions do not comply

*DM - accept both affidavits and note that the swing of the two doors into the south mezzanine be changed, and require that compliant handrails be installed at both sides by June 1, 2014*

*CS - second – carries unanimously*

19) Discussion: DeLuca's Market, 7-17 Charles St., Boston (V11-232)

KS - EXHIBIT - March 12, 2014 e-mail from Janet Duncan Dolan, Beacon Hill resident in support of the lack of access to the DeLuca's Wine Cellar  
- (read e-mail into the record)

*DM - add it to the file folder*

*MB - second – carries unanimously*

20) Incoming: Proposed off-site sidewalk, 16 South Main Street, Millbury (V14-061)

KS - work performed, small sidewalk completion project spending \$10,000  
- Variance for 521 CMR 22.3.1, regarding cross slope of sidewalk area at the concrete apron across the driveway, if made to 2% it will be unusable, but no measurement given of how steep it will be (currently 28%)

*MB* - continue for more information regarding proposed cross slope at the driveway, submit by April 22, 2014  
*DM* - second – carries unanimously

**Thomas Hopkins, Executive Director – Now Present (TH)**

21) Incoming: Yoshi's Restaurant, 2 East Chestnut St., Nantucket (V14-074)

KS - EXHIBIT – variance application and all supplemental information; March 21, 2014 letter from Commission on Disability in support of variance request  
- spending over 30%  
- seeking variance for one of the two entrances to not be accessible  
- renovation of the building, proposing new accessible entrance and bathroom

*MB* - grant as proposed

*DM* - second –

CS - what about the sidewalk being cluttered?

*MB* - and maintain the accessible route to the accessible entrance

*DM* - second amendment  
- carries with CS opposed

22) Incoming: Lowell General Hospital, 295 Varnum Avenue, Lowell (V14-073)

TH - EXHIBIT – Variance application and all supplemental information  
- project on bathroom  
- smaller stall sizes allowed by ADA and IBC, allowing footrest to go under other adjacent stalls; but not by 521 CMR  
- just one stall in one bathroom has the noncompliant dimensions, plan submitted showing other accessible toilet rooms  
- supposed to be 42" and they have 34 5/8"

*CS* - deny the variance, based on the fact that it was not proven that full compliance would be "impracticable"

*MB* - second – carries unanimously

23) Hearing: Village Inn, 17 Main Street, Egremont (V13-317)

WW - called to order at 2 p.m.  
- introduce the Board

No one present

WW - EXHIBIT 1 – AAB1-40  
- EXHIBIT 2 – April 5, 2014 letter from Nick Keene, Son of Owner Sara Keene

- Exhibit 2 read into the record
- EXHIBIT 3 – Cost Breakdown submitted by Nick Keene

TH - contacted the architect when this first came to the Board  
 - no list of spending on the initial variance application

KS - spending listed on EXHIBIT 3

- ok, so now cost breakdown submitted, but unsure of the money spent and if an accessible toilet room is provided since they spent over \$100,000.00

MB - not sure of first floor renovations and what the renovations at the first floor were

*MB - continue for more information, need to know what work was done, specifically for “first floor renovations”,*

*DM - second*

*DM - removal of second*

*MB - rescind motion*

*CS - grant the variance for walkway slope as exists*

*DM - second – carries unanimously*

*DM - have Tom follow-up with owner*

*MB - second – carries unanimously*

24) Incoming: Proposed Candy Store, 414 Winthrop Street, Taunton (V14-077)

TH - EXHIBIT – variance application and all supplemental information  
 - first variance for ramp Proposing ramp into the interior of the shop, which also requires two variances, width at bottom is 41 ¾” (48 required); length of landing at turn is 5’6 ½” by 4’ 10 3/16” (5’ by 5’ required)

*MB - grant variance for ramp width*

*AB - second – carries unanimously*

*MB - grant variance for length of landing at turn*

*AB - second – carries unanimously*

25) Incoming: Mary Colbert Apartments, 20 Devens Street, Charlestown (V14-078)

TH - EXHIBIT – variance application and all supplemental information  
 - Spending over 30%  
 - Existing 1871 building, converted to low income housing in the 1980’s  
 - Exterior envelope preservation project, also replacement of two existing ramps handrails, accessible kitchen upgrade, and new accessible dryer proposed  
 - Lack of access to the front entrance (west façade)  
 - Existing accessible entrance into public lobby at lower level of north elevation  
 - No other variances requested, but noncompliant handrails shown at west façade entrance stairs  
 - Existing entrance is 7’9” above grade

- CS - *grant on the condition that the west façade stair handrails comply*  
AB - *second – carries unanimously*

26) Incoming: Proposed Tenant Space Fit-out, 675-691 Boylston Street, Boston (V14-079)

- TH - EXHIBIT – variance application and supplemental information  
- Tenant work triggers 30% for public and common use spaces for the owner  
- Two variances for two tenant spaces  
- First variance is for Tenant B, a health club (small space on first floor, majority at lower level)  
- Propose use of common hall elevator, 54'6" from interior of first floor tenant space  
- Second variance, Tenant C (yet to be named), smaller first floor tenant area, and larger second floor area  
- Propose to use common hallway elevator up (24') to elevator

- MB - *grant both as proposed*  
DM - *second - carries unanimously*

**WW left the room, DM as chair**

27) Incoming: Spa, 457 Great Road, Acton (V14-080)

- TH - EXHIBIT – variance application and all supplemental information  
- work done without permits, caught and stop work order issued  
- change of use at second floor, expansion of spa  
- accessible at first floor, promise same services available at first floor  
- variance for lack of access to second floor  
- EXHIBIT – email from Acton Disability Commission, in favor on the condition that same use at the second floor and hot tub at the first floor as well

- CS - *grant*  
- *withdraw*

- CS - *hearing*  
MB - *second – carries unanimously*

**WW now present as chair**

**MB not present**

28) Discussion: Decisions from March 24, 2014

- CS - issue with first and third conclusions seem to contradict, double-check  
- not present for last hearing

- CS - *accept decisions from March 24, 2014*  
AB - *second – carries unanimously*

**MB now present; DM left for the day**

29) Incoming: Mixed Use Building, 45 Broad Street, Boston (V14-081)

- TH - EXHIBIT – variance application and supplemental information
- Renovation of existing, over 30%
  - Retail at first floor and residential above
  - Seeking to remove existing elevator (not required since less than 12 units)
  - ISD is holding up permits until Board makes decision about the elevator removal
  - Proposing incline lift for one tenant space and at-grade for
  - Two other entrances will be inaccessible

*MB - grant as proposed to 3.3.4 for the removal of the elevator, provided that the upper floors remain as residential as proposed; and the first floor be accessible, prior to occupancies being issued*

*CS - second – carries unanimously*

**Virgil Aiello present and asked to videotape the meeting; after brief recess, allowed to videotape meeting**

30) Hearing: Abbott Hall, 188 Washington Street, Marblehead (V13-327)

- WW - called to order at 3:05 p.m.
- introduce the Board

Wendell Kalsow, McGinley Kalsow & Associates, Inc. (Architect) (WK)  
Rebecca Curran Cutting, Town of Marblehead (RC)

- WW - both sworn in
- EXHIBIT 1 – AAB1-34

- WK - all information on larger boards in the same as in the packets
- basic project was for an inspection of the 175 foot tall tower
  - constructed in 1876, individually listed on national register
  - repairs to the tower, and very close to the 30% rule in terms of access
  - since the application was submitted, have bid two separate projects
  - met with Marblehead Disability Commission and have received their endorsement for the variances requested
- submittal of cost breakdown, over 30% based on current projects

- WW - EXHIBIT 2, April 7, 2014 cost breakdown

- WK - West, north and east entrances all go to the first floor; south entrance goes to ground floor (part of museum level)
- no required parking spaces, since less than 15 spaces
  - parking lot slopes beyond 1:50 level area

**Virgil Aiello left the room**

- expanding the existing on-street spot to provide a loading zone
- will provide “ambulatory” accessible parking spaces (2) and one accessible van space

- unloading space is slightly offset to provide an accessible route to the accessible ramp, and to avoid existing brick swale

CS - is that van accessible space only for use by Abbott Hall?

WK - have not thought of it, but it is the only commercial property in the neighborhood

WK - removing boxed enclosure at Stair 001

- removing radiator to provide 6'8" head height under stairway

- adding display cases to protect visually impaired users of the building to deter them from low height sprinkler pipes

- also making changes to accessible bathrooms at ground floor; providing accessible drinking fountains

- at the first floor, changing hardware at the west, north and east entrance doors; adding two town offices (town manager and town clerk), changing the services counters to comply in full; adding a center handrail at the west stair, where there is no handrail at the stair currently; handrail extensions provided at grand stair; changing all the door hardware to comply

- second floor, time variance for lift to the stage; staff only bathrooms at the back (not open to the public)

- third floor, lowering thresholds at balcony level doors; balcony served by elevator; removing 12 seats to provide 3 accessible seats and two companion seats

WK - variances first for Stair 001 at Ground floor level, arch is 3' 1 1/2" wide arch is 6' 1 1/2" at jam and 6'8" at peak

MB - *grant as proposed for door jamb arch*

CS - *second – carries unanimously*

WK - variance for first floor entrances and the stairways (grand stair as well as the east stairs, to have one side of the stair have compliant handrail)

CS - accessible entrance?

WK - AAB19, shows entrance and route; apologize that there is not the proper door shown at the route to the elevator lobby for route

- there will be proper signage in place

CS - where does the elevator end up at the second floor?

WK - rotunda and one large open space

- what about next floor up

WK - directly adjacent to grand stair

- one level further is at balcony level

CS - *grant the variances for the three inaccessible entrances, on the condition that the accessible entrance is well lit and maintained at all times, and that the route to the elevator is left clear and well marked with signage (at interior and exterior)*

AB - *second – carries unanimously*



WK - handrail variance for existing handrails, proposing to add to existing ramp to create oval shape

AB - *grant the variance for the existing inner handrails, as proposed and compliant wall side (grand stair with center handrail)*

CS - *second – carries unanimously*

WK - nosing and scotia, drawing 85

MB - *no variance required, based on proposals for installation of scotia where missing*

AB - *second – carries unanimously*

WK - stage area at second floor is sloped, cross slope is higher as you go further away from the audience  
- 1:35 slope, to give sense of perspective  
- technologically infeasible to do anything with the existing stage  
- height at the back and low at the front, and a one foot banner in the front

MB - *grant relief to the slope of the stage*

RG - *second – carries unanimously*

WK - other second floor variance request is a 3 year time variance for accessible lift  
- need time to get funding for the lift

RC - \$80,000 including soft costs

WK - town proposes to either rent a portable lift at any time that the stage is used and request for lift; or rent a lower platform with a ramp, which would move the entire event to the lowered platform

MB - any affidavit submitted?

WK - not at this point, but could provide statement of policy

RC - if received the grant, could be done sooner, or will have to wait until May of next year to submit for funding

CS - *allow the three year time variance (May 1, 2017) on the condition that as proposed, whenever someone needs access to the stage, either rent a portable wheelchair lift, or have even held at lower accessible platform, memorialized in an affidavit by the Town Administrator by June 1, 2014; status reports every 6 months, beginning December 1, 2014; installed inspected and operating by May 1, 2017*

AB - *second – carries unanimously*

WK - flanking stairs on stairs to second floor stage, only handrail at wall

MB - *grant*

CS - *second – carries unanimously*

WK - third floor balcony level, proposing to remove 12 seats as part of the upper tier level, near the entrance to the balcony (currently seat 179 seats), propose 3 accessible seating locations and 2 companion seats  
- 3 variances (14.2, number of accessible seating locations; 14.2.1, distribution requirement; 14.4, armless seats)

*MB - grant as proposed*

*RG - second – carries unanimously*

WK - auditorium level, change in level  
- proposing to take the width of the opening and make it a sloped floor for ¾”

*MB - grant as proposed*

*RG - second – carries unanimously*

WK - all of the doors at the first floor, 12 within load bearing walls, 6 serve museum, so open when museum is open, but other are not always held open  
- \$10,000 for closer because of the construction of the building  
- all of the doors in question are off of the main hallway  
- some doors with glass, some other doors without glass; but the two offices on that floor that have glass in the upper panels

CS - would like auto-openers

KS - \$10,000 per door

MB - doors that are not always open will have accessible hardware?

WK - yes, all doors used by the public will have accessible door hardware

*MB - grant as proposed*

*AB - second – carries unanimously*

KS - parking and passenger loading zone  
- two doors in a series variance as well

*MB - no variance required for parking and passenger loading zones, based on number of parking spaces provided and lack of jurisdiction of the board*

*CS - second – carries unanimously*

WK - 40” provided for the two doors in a series at the first floor west entrance

*MB - grant as proposed*

*AB - second – carries unanimously*

31) Incoming: Wendall Terrace, 19-21 Wendall Street, Cambridge (V14-082)

- TH - EXHIBIT – variance application and all supplemental information  
- Four new apartments at the basement, along with new fitness room and laundry room  
- Work performed, under 30%, only triggered variance for entrance based on spending  
- 75” below first floor and 42” above basement

MB - *grant based on technological infeasibility*

AB - *second – carries with CS abstaining*

32) Incoming: The Brick Store Ice Cream Shop, 5 Johnson Street, North Andover (V14-084)

- TH - EXHIBIT – variance application and all supplemental information  
- Work performed, spent total of \$53,500 over 3 years, building valued at \$310,500  
- Creating a new exterior service window for proposed ice cream shop  
- New exterior service window will just be a platform at the top of stairs (see plans)  
- Ramp to front entrance to get inside of the building, variance for no access to the new customer service window  
- no partial application analysis

CS - *require partial application analysis submitted by April 22, 2014*

MB - *second – carries unanimously*

33) Incoming: 64-66 Central Street, Milford (V14-086)

- TH - EXHIBIT – variance application and all supplemental information  
- was submitted to everyone, but seeking to expedite

MB - *grant waiving of two –week waiting period, only because we have verification that all parties were notified*

AB - *second – carries unanimously*

- TH - plans show ramp at the front, one to the left and one to the right

- AB - ramp to the right of the doorway with 1:12 slope

- MB - 41” between the handrails

MB - *accept the plan labeled AAB1.1b, showing a ramp with a slope of 1:12, granting a variance for the width between the handrails and the dimensions of the platform at the turn (as indicated in the plan)*

RG - *second –*

MB - *problem with swing of the door, and need to change the swing of the door*  
*- carries unanimously*

- TH - time variance for her office

MB - *grant time variance for access to the lower level retail, on the condition that accommodation plan in the interim; April 15, 2015; status report October 1, 2014 and another January 1, 2015, completion by April 15, 2015*

*AB - second – carries unanimously*

*MB - front ramp must be in place before co issued*

*AB - second – carries unanimously*

34) Advisory Opinion: Cabinet Pull design

TH - EXHIBIT – picture of proposed cabinet pull

*MB - accept design as compliant*

*RG - second – carries unanimously*

35) Incoming: St. John Baptist Church, 17 Chestnut St., Peabody (V14-070)

TH - EXHIBIT – variance application and all supplemental information  
- value of building listed as \$9 million  
- seeking relief to use a LULA instead of an elevator  
- LULA does not access balcony

*MB - hearing*

*AB - second – carries unanimously*

36) Incoming: Commercial Building, 606 North Avenue, Wakefield (V14-076)

TH - EXHIBIT – variance application and supplemental information  
- Spending over 30%, proposing wheelchair lift but only to first floor  
- Salon and other business at second floor, no access proposed

*MB - hearing*

*AB - second – carries unanimously*

37) Incoming: Conversion of Tuell Nursing Home to Residential Condos, 92 Franklin Street, Melrose (V14-075)

TH - EXHIBIT – variance application and supplemental information  
- conversion of nursing home to 4 residential condos  
- proposing to remove the existing ramp

*MB – deny*

*RG - second – carries unanimously*

38) Incoming: Artis Senior Living, 110 Main Street, Reading (V14-067)

TH - EXHIBIT – Variance application and all supplemental information  
- two-story 64 bed assisted living Alzheimer's memory care facility  
- New construction, spending \$5 million  
- Seeking variance for 44.6.2 (Group 2B bathrooms, 30" x 60", wheel-in showers required)

- Proposing 36" x 36" with fold-down seat, based on the "need to maintain as much living space in the resident bedroom as possible" and to "permit the shower control wall to be on an end wall, which allows access to the controls by the caregiver
- Proposed for all shower rooms in the Assisted Living Alzheimer's/Memory Care facilities (50% of the total room count)
- Argument that using wheel-in shower will increase the overall building footprint by 19.5 square feet per room, at an estimated cost of \$160/ square feet increasing the construction cost by approximately \$99,840

*MB - deny*

*RG - second – carries unanimously*

39) Incoming: Clipper City Rail Trail, Newburyport (V14-083 & V07-121)

TH - EXHIBIT – new variance application and amendment supplemental information

- Existing rail trail, phase 2 of renovation/expansion project

- Phase 1 was granted in 2007 (completed in 2010)

KS - Phase II runs along 1.5 miles of the waterfront and back to Parker Street in Newbury

- Phase II will include at-grade accessible intersections at six cross streets and associated sidewalks, plus two courts, two paved pathways at Water Street and an accessible spur trail at High Street

- Issue is connection to neighborhood via a stair; two areas proposed with stairs

*MB - grant as proposed*

*RG - second – carries unanimously*

- End of Meeting -

EXHIBITS:

- E-mail dated March 12, 2014 from Janet Duncan Dolan, resident of Chestnut Street in Boston, regarding DeLuca's Market, 7-17 Charles Street, Boston
- Advisory Opinion Request: Cabinet Hardware for Group 1 and Group 2A Dwelling Units
- Advisory Opinion Request: Accessible Egress Signage - Cary Memorial Building, Lexington
- Shaker Village Trustees Office, 1843 West Housatonic Street, Pittsfield (V11-161): EXHIBIT – April 2, 2014 e-mail from June Hailer, Pittsfield Commission on Disabilities; including April 1, 2014 e-mail from Linda Steigleder, President and CEO of Hancock Shaker Village
- Condo Units 215-219, 101 Main Street, Medford (V13-342): EXHIBIT – March 5, 2014 submittal from Elizabeth Bahnuk Senior Planner for Hallmark Health System
- Norton High School, 66 West Main Street, Norton (V14-027): EXHIBITS – March 6, 2014 submittal from Deborah Marai of Pinck & Co. including the enlarged drawings of the three wheelchair seating areas; March 21, 2014 photographs of wheelchair seating locations submitted by Marai
- Nite Owl Diner, 1680 Pleasant Street, Fall River (V13-241): EXHIBITS – March 12, 2014 submittal from John Patrick Long on behalf of the owners of Nite Owl Diner, follow-up from the February 10, 2014 decision of the Board; also included "proposed accessible entrance ramp plan" (SITEC, Inc., March 7, 2014) and two site plans (with one showing the ramp)
- Concord Outfitters, 113 Commonwealth Avenue, Concord (V13-339): EXHIBIT – April 3, 2014 e-mail from Andrew Bonzagni of Concord Outfitters

- Apartment Building, 40 Norris Street, Cambridge (V12-293): EXHIBIT – variance application for property submitted by Domenic Valente, AIA; e-mail chain from Larry Braman of the City of Cambridge Inspectional Services Department (March 12, 2014); e-mail from Michael Muehe, Executive Director for the Cambridge Commission for Persons with Disabilities (March 17, 2014)
  - Casco Crossing Apartments, 168 River Road, Buildings 1-4 and Community Building, Andover (C14-012): EXHIBIT – March 26, 2014 letter from Ted Papadopoulos of Ashton Law P.C. on behalf of the property owners; March 24, 2014 letter from Ryan Givens, Senior Commercial Claims Representative for Farmers Insurance
  - The Batch Yard, 1 & 2 Bowdoin Street, 25 Charlton Street, Everett (V13-132): EXHIBIT – March 27, 2014 submittal from Kenneth Friedrichsen, Manager of GM Broadway
  - MBTA Yawkey Station, Maitland Street at Beacon Street and Yawkey Way Extension at Brookline Avenue, Boston (V12-131): EXHIBIT – March 11, 2014 submittal from Laura Breslford, Acting Assistant General Manager, System-Wide Accessibility for Massachusetts Department of Transportation, including plans showing the “pinch points” on the platform when trains are in the station and the MBCR boarding policy
  - Waverly Commuter Rail Station, 525 Trapelo Road, Belmont (C12-033 & V13-076): EXHIBIT – March 28, 2014 submittal from Laura Breslford, Acting Assistant General Manager, System-Wide Accessibility for Massachusetts Department of Transportation
  - 76 Main Street, Nantucket (V13-196): EXHIBIT – March 27, 2014 submittal from Joseph Hanley with status report and request for extension to May 1, 2014
  - Isaac Harris Cary Memorial Building, 1605 Massachusetts Avenue, Lexington (V13-238): EXHIBIT – April 2, 2014 submittal from Don Mills
  - Lancaster Community Center, 39 Harvard Road, Lancaster (V10-085): March 31, 2014 e-mail from Alexandra Turner: EXHIBIT – March 31, 2014 e-mail from Alexandra Turner, Director of Lancaster Community Center; status report
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- Proposed Off-Site Sidewalk, 16 South Main Street, Millbury (V14-061 ): Variance application and all supplemental information attached
  - Artis Senior Living, 110 Main Street, Reading (V14-067 ): Variance application and all supplemental information attached
  - St. John the Baptist Parish, 19 Chestnut Street, Peabody (V14-070 ): Variance application and all supplemental information attached
  - Lowell General Hospital, 295 Varum Avenue, Lowell (V14-073 ): Variance application and all supplemental information attached
  - Yoshi’s Restaurant, 2 East Chestnut Street, Nantucket (V14-074 ): Variance application and all supplemental information attached
  - Conversion of Tuell Nursing Home to Residential Condos, 92 Franklin Street, Melrose (V14-075 ): Variance application and all supplemental information attached
  - Commercial Building, 606 North Avenue, Wakefield (V14-076 ): Variance application and all supplemental information attached
  - Proposed Candy Store, 414 Winthrop Street, Taunton (V14-077 ): Variance application and all supplemental information attached
  - Mary Colbert Apartments, 20 Devens Street, Charlestown (V14-078 ): Variance application and all supplemental information attached
  - Proposed Tenant Space Fit-out, 675-691 Boylston Street, Boston (V14-079 ): Variance application and all supplemental information attached
  - Spa, 457 Great Road, Acton (V14-080 ): Variance application and all supplemental information attached

- Mixed Use Building, 45 Broad Street, Boston (V14-081) ): Variance application and all supplemental information attached
- Wendell Terrace, 19-21 Wendall Street, Cambridge (V14-082) ): Variance application and all supplemental information attached
- Clipper City Rail Trail, Newburyport (V14-083 & V07-121) ): Variance application and all supplemental information attached
- The Brick Store Ice Cream Shop, 5 Johnson Street, North Andover (V14-084) ): Variance application and all supplemental information attached
- 64-66 Central Street, Milford (V14-086) ): Variance application and all supplemental information attached